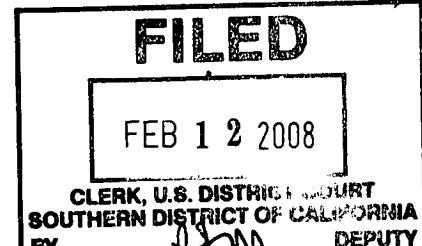


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13 UNITED STATES DISTRICT COURT
14 SOUTHERN DISTRICT OF CALIFORNIA
15 UNITED STATES OF AMERICA,) Case No. 07cr3054-IEG
16 Plaintiff,)
17 v.) STIPULATION AND JOINT MOTION
18) FOR RELEASE OF MATERIAL
19) WITNESS AND ORDER THEREON
20 JORGE ORTEGA-ROCHA (1),)
21 ALBERTO MINOR-OLVERA (2),)
22 Defendants.)
23 _____)

24 IT IS HEREBY STIPULATED AND AGREED between the plaintiff, UNITED STATES
25 OF AMERICA, by and through its counsel, Karen P. Hewitt, United States Attorney, and
26 Christopher M. Alexander, Assistant United States Attorney, and defendant JORGE ORTEGA-
27 ROCHA, by and through and with the advice and consent of defense counsel, Joseph McMullen,
28 Esq., that:

1. Defendant agrees to enter into this stipulation and to participate in a full and complete
inquiry by the Court into whether Defendant knowingly, intelligently, and voluntarily entered into
it. Defendant agrees to plead guilty to Count 2 of the Indictment charging Defendant with a non-
mandatory minimum count of Transporting an Illegal Alien in the United States, in violation of 8
U.S.C. § 1324(a)(1)(A)(ii) and (v)(II).

2. Defendant acknowledges receipt of a plea agreement in this case and agrees to
provide the signed, original plea agreement to the United States not later than noon on February 8,

1 2008.

2 3. Defendant agrees to plead guilty to Count 2 pursuant to the plea agreement on or
3 before 5:00 p.m. on February 12, 2008.

4 4. Material Witnesses Jose Rosario Vega-Felix, Jose Vladimir Meza-Silvas, and Alfredo
5 Silvas-Cardenas:

- 6 a. Are aliens with no lawful right to enter or remain in the United States;
- 7 b. Entered or attempted to enter the United States illegally on October 27, 2008;
- 8 c. Were found in a vehicle in which Defendant was the driver and that
Defendant knew or acted in reckless disregard of the fact that the individuals
were aliens with no lawful right to enter or remain in the United States;
- 9 d. The aliens were paying money to Defendant's employers to be brought into
the United States illegally and transported illegally to their destination
therein; and,
- 10 e. May be released and remanded immediately to the Department of Homeland
11 Security for return to their country of origin.

12 5. After the material witnesses are ordered released by the Court pursuant to this motion,
13 if Defendant does not plead guilty to the charge set forth above, Defendant agrees that in any
14 proceeding, including, but not limited to, motion hearings, trial, sentencing, appeal or collateral
15 attack, that:

- 16 a. The stipulated facts set forth in paragraph 4 above shall be admitted as
17 substantive evidence;
- 18 b. The United States may elicit hearsay testimony from arresting agents
19 regarding any statements made by the material witnesses provided in
discovery, and such testimony shall be admitted as substantive evidence
under Fed. R. Evid. 804(b)(3) as statements against interest of unavailable
20 witnesses; and,
- 21 c. Understanding that under Crawford v. Washington, 541 U.S. 36 (2004),
22 "testimonial" hearsay statements are not admissible against a defendant
23

1 unless defendant confronted and cross-examined the witness who made the
2 "testimonial" hearsay statements, defendant waives the right to confront and
3 cross-examine the material witnesses in this case.

4 Based on the foregoing, the parties jointly move the stipulation into evidence and for the
5 immediate release and remand of the above-named material witnesses to the Department of
6 Homeland Security for return to their country of origin.

7 It is STIPULATED AND AGREED this date.

8 Respectfully submitted,

9 KAREN P. HEWITT
United States Attorney

10 Dated: 2/12/08

Christopher Alexander
11 CHRISTOPHER M. ALEXANDER
Assistant United States Attorney

12 Dated: 2-6-08

Joseph McMullen
13 JOSEPH MCMULLEN
Defense Counsel for
14 JORGE ORTEGA-ROCHA

15 Dated: 2-6-08

Jorge Ortega Rocha
16 JORGE ORTEGA-ROCHA
Defendant

17 ORDER

18 Upon joint application and motion of the parties, and for good cause shown,

19 **THE STIPULATION** is admitted into evidence, and,

20 **IT IS ORDERED** that the above-named material witnesses be released and remanded
21 forthwith to the Department of Homeland Security for return to their country of origin.

22 SO ORDERED.

23 Dated: 2/12/08

John M. Peter
24 United States Magistrate Judge